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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/756,588    01/08/01    SINGLETON

K    856

EXAMINER

QM22/0827

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WORRELL JR., L.

ART UNIT

PAPER NUMBER

3765

DATE MAILED:

08/27/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/756,588

Applicant(s)  
Singleton

Examiner  
Danny Worrell

Art Unit  
3765



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Meengs et al.

The disclosure of Meengs et al. teaches the a sock as claimed including an inner cuff(4) having an inner portion which remains next to a user's skin when worn by the user and an opposing outer portion, said inner and outer portions comprise a foot-covering portion(2) which includes a toe portion and a heel portion. The sock further includes an outer cuff(5) formed integrally along a linearly elongated centerline. Said outer cuff is designed and configured so as to fold downward in a direction away from the leg covering portion to the heel portion in such a manner whereby the cuff folds over a top portion of a boot so as to effectively cover upper boot laces. Note that the inner cuff is fabricated as a separate loop from said outer cuff.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meengs et al. in view of Kearns.

The disclosure of Meengs et al. teaches the invention as claimed as indicated above in the rejection to claim 1. The disclosure of Meengs et al. does not teach the use of an elastic yarn in the selvage. As shown in figure 4, Kearns teaches a sock with elastic yarns in the selvage of an outer cuff portion. It would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the selvage area of the outer cuff of Meengs et al. with elastic yarns as shown by Kearns in order increase the elasticity of the outer cuff portion of Meengs et al. and thereby maintain the cuff taut against the sock.

Regarding the process limitations found in claims 6-8, the method of making the product is not germane to the patentability of the product itself. Even so it should be noted that the selvage of Kearns does in fact include the process steps as claimed.

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*Response to Arguments*

5. Applicant's arguments filed 6/18/01 have been fully considered but they are not persuasive.

Initially it is noted that applicant has not argued the rejection of independent claim 1 and dependent claim 2 under 102(b). On page 2 of the response, applicant argues claim 3 and the limitation of the outer cuff being formed "integrally" with the leg covering of is not found in reference of Meengs et al. The examiner disagrees. It is self-evident from even a cursory review of Meengs et al. these elements are integrally formed. The fact that many individual loops are knitted together does not take away from the fact that the elements are integrally formed. Applicant also argues that the reference of Meengs et al. fails to teach a selvage made up of several rounds of elastic yarns. The examiner has never indicated that the reference of Meengs et al. teaches such elastic yarns. In fact the examiner combined the teachings of Kearns with Meengs et al. for the express purpose of adding elastic rounds to the selvage of Meengs et al. Kearns uses multiple rounds of elastic yarn as plainly set forth in column 3, lines 19-28. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941

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(Fed. Cir. 1992). In this case, it would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the selvage area of the outer cuff of Meengs et al. with elastic yarns as shown by Kearns in order to increase the elasticity of the outer cuff portion of Meengs et al. and thereby maintain the cuff taut against the sock.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danny Worrell whose telephone number is (703) 308-0889. Messages placed on voice mail will be returned by the end of my next business day.

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The fax phone number for this Group is (703) 308-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

Any inquiry concerning the Draftsperson's drawing review should be directed to the Chief Draftsperson whose telephone number is (703) 305-8404.

LDW  
August 26, 2001

  
Danny Worrell  
Primary Examiner  
TC 3700